

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
Lynchburg Division**

In re VICTORIA SMITH,)	Case No. 10-62948-LYN
)	
Debtor.)	
)	
VICTORIA SMITH,)	Adv. Proc. No. 11-06002
)	
Plaintiff,)	
)	
v.)	
)	
THE FAUQUIER BANK,)	
)	
Defendant,)	
)	

AMENDED

MEMORANDUM AND ORDER

This matter comes before the court on a motion by Victoria Smith (“the Debtor”) to avoid the judicial lien of The Fauquier Bank. The motion is brought under 11 U.S.C. § 522(f) which provides that a debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled if such lien is a judicial lien. A lien is considered to impair an exemption to the extent that the sum of (1) the lien; (2) all other senior liens on the property; and (3) the amount of the exemption that the debtor could claim if there were no liens on the property exceeds the value that the debtor’s interest in the property would have in the absence of any liens. See 11 U.S.C. § 522(f)(2)(A).

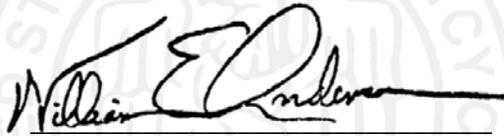
The Debtor applied the statutory formula incorrectly. In this case, the judicial lien amount is \$4,845.99. The first deed of trust is \$247,500.00. The amount of the exemption that the debtor could claim is \$4,424.00. The fair market value of the property is \$252,000.00. Applying the formula in 11 U.S.C. § 522(f)(2)(A), the amount of judicial lien that the Debtor may avoid is \$4,769.99 (= [\$4,845.99 + \$247,500.00 + \$4,424.00] - \$252,000.00). The balance of the lien may not be avoided.

The Fauquier Bank's judicial lien on the real property commonly known as 862 Campbell Road, Keswick, Virginia, is avoided to the extent of \$4,769.99.

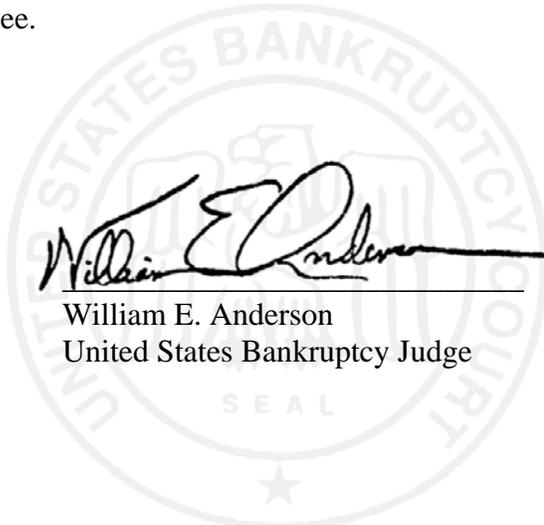
So ORDERED.

Upon entry of this Memorandum and Order the Clerk shall forward a copy to Douglas E. Little, Esq., The Fauquier Bank, and the chapter 7 trustee.

Entered on this 13th day of April, 2011.



William E. Anderson
United States Bankruptcy Judge



The seal of the United States Bankruptcy Court is visible in the background, featuring the text "UNITED STATES BANKRUPTCY COURT" around the perimeter, "SEAL" at the bottom, and a star in the center.